

SB3057



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3057

Introduced 2/8/2010, by Sen. Don Harmon

SYNOPSIS AS INTRODUCED:

See Index

Amends the Swimming Facility Act. Changes the statement of purpose and changes and adds definitions. Changes and adds provisions regarding: licensing of a swimming facility; swimming facility contractor licenses; swimming facility designer certification; permits for construction, development, installation, or major alteration of swimming facilities; license renewal; fees; rules; violations; civil and criminal penalties; hearings and determinations; facility closure; applicability; and other matters. Makes other changes. Effective immediately.

LRB096 16294 KTG 31552 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Swimming Facility Act is amended by changing
5 Sections 2, 3, 3.12, 4, 5, 6, 7, 8, 9, 13, 14, 15, 16, 21, 22,
6 and 23 and by adding Sections 3.13, 3.14, 3.15, 4.1, 4.2, 4.9,
7 and 29 as follows:

8 (210 ILCS 125/2) (from Ch. 111 1/2, par. 1202)

9 Sec. 2. Legislative purpose. It is found that there exists,
10 and may in the future exist, within the State of Illinois
11 public swimming pools, spas, water slides, public bathing
12 beaches, and other swimming facilities ~~aquatic features~~ which
13 are substandard in one or more important features of safety,
14 cleanliness or sanitation. Such conditions adversely affect
15 the public health, safety and general welfare of persons.

16 Therefore, the purpose of this Act is to protect, promote
17 and preserve the public health, safety and general welfare by
18 providing for the establishment and enforcement of minimum
19 standards for safety, cleanliness and general sanitation for
20 all swimming pools, spas, water slides, public bathing beaches,
21 and other aquatic features now in existence or hereafter
22 constructed, developed, or altered and to provide for
23 inspection and licensing of all such facilities.

1 (Source: P.A. 92-18, eff. 6-28-01.)

2 (210 ILCS 125/3) (from Ch. 111 1/2, par. 1203)

3 Sec. 3. Definitions. As used in this Act, unless the
4 context otherwise requires, the terms specified in Sections
5 3.01 through 3.15 ~~3.12~~ have the meanings ascribed to them in
6 those Sections.

7 (Source: P.A. 92-18, eff. 6-28-01.)

8 (210 ILCS 125/3.12)

9 Sec. 3.12. Swimming facility. "Swimming Facility" means a
10 swimming pool, spa, public bathing beach, water slide, lazy
11 river, spray pool, or other ~~similar~~ aquatic feature that exists
12 for the purpose of providing recreation or therapeutic services
13 to the public. It does not include isolation or flotation
14 tanks.

15 (Source: P.A. 92-18, eff. 6-28-01.)

16 (210 ILCS 125/3.13 new)

17 Sec. 3.13. Spray pool. "Spray pool" means an aquatic
18 recreational facility that is not a swimming pool and that has
19 structures or fittings for spraying, dumping, or shooting
20 water. The term does not include facilities having as a source
21 of water a public water supply that is regulated by the
22 Illinois Environmental Protection Agency or the Illinois
23 Department of Public Health and that has no capacity to recycle

1 water.

2 (210 ILCS 125/3.14 new)

3 Sec. 3.14. Swimming facility design professional.

4 "Swimming facility design professional" means an individual
5 who is certified by the Department to design swimming
6 facilities or aspects thereof, as prescribed by rules
7 promulgated by the Department.

8 (210 ILCS 125/3.15 new)

9 Sec. 3.15. Swimming facility contractor. "Swimming
10 facility contractor" means a person licensed by the Department
11 to construct, install, modify, or repair swimming facilities.

12 (210 ILCS 125/4) (from Ch. 111 1/2, par. 1204)

13 Sec. 4. License to operate. After May 1, 2002, it shall be
14 unlawful for any person to open, establish, maintain, or
15 operate a swimming facility ~~pool, water slide, or bathing beach~~
16 within this State without first obtaining a license therefor
17 from the Department. Requirements for licensure, including
18 fees, requirements, and standards, shall be prescribed by rules
19 promulgated by the Department. ~~After May 1, 2003, it shall be~~
20 ~~unlawful for any person to open, establish, maintain, or~~
21 ~~operate a spa within this State without first obtaining a~~
22 ~~license from the Department. Licenses for swimming facilities~~
23 ~~shall expire May 1, next following the swimming season for~~

1 ~~which the license was issued, except that an original license~~
2 ~~for a swimming facility issued after February 1 and before May~~
3 ~~1 shall expire on May 1 of the following year. Licenses for~~
4 ~~indoor pools that expire December 1, 2001 shall be renewed for~~
5 ~~a \$75 fee for a license that will expire on May 1, 2003.~~
6 ~~Applications for original licenses shall be made on forms~~
7 ~~furnished by the Department. Each application to the Department~~
8 ~~shall be signed by the applicant and accompanied by an~~
9 ~~affidavit of the applicant as to the truth of the application~~
10 ~~and, except in the case of an application by an organization~~
11 ~~incorporated under the General Not for Profit Corporation Act,~~
12 ~~as amended, by the payment of a license application fee of \$50.~~
13 ~~License fees are not refundable. Each application shall~~
14 ~~contain: the name and address of the applicant, or names and~~
15 ~~addresses of the partners if the applicant is a partnership, or~~
16 ~~the name and addresses of the officers if the applicant is a~~
17 ~~corporation or the names and addresses of all persons having an~~
18 ~~interest therein if the applicant is a group of individuals,~~
19 ~~association, or trust; and the location of the swimming~~
20 ~~facility. A license shall be valid only in the possession of~~
21 ~~the person to whom it is issued and shall not be the subject of~~
22 ~~sale, assignment, or other transfer, voluntary, or~~
23 ~~involuntary, nor shall the license be valid for any premises~~
24 ~~other than those for which originally issued. Upon receipt of~~
25 ~~an application for an original license the Department shall~~
26 ~~inspect such swimming facility to insure compliance with this~~

1 ~~Act.~~

2 (Source: P.A. 92-18, eff. 6-28-01.)

3 (210 ILCS 125/4.1 new)

4 Sec. 4.1. Swimming facility contractor license. No person
5 shall offer or perform construction, installation,
6 modification, or repair of a swimming facility unless that
7 individual or entity is licensed by the Department. Those
8 persons required to be licensed shall make application and pay
9 fees and meet minimum requirements as prescribed by rules
10 promulgated by the Department. A license shall expire annually
11 according to a schedule determined by the Department. When a
12 licensure examination is required, the application for
13 licensure shall be submitted to the Department at least 30 days
14 prior to the date of the scheduled examination. The Department
15 shall evaluate each application based on its minimum standards
16 for licensure, promulgated as rules, and render a decision.
17 Such standards may include a requirement for the successful
18 completion of a course of training approved by the Department.
19 If the Department denies the application, the applicant may
20 appeal such decision pursuant to the provisions of the
21 Administrative Review Law.

22 (210 ILCS 125/4.2 new)

23 Sec. 4.2. Swimming facility design professional
24 certification. No person shall offer or perform design of a

1 swimming facility unless that person is certified by the
2 Department. Those persons wishing to be certified shall make
3 application and pay fees and meet minimum standards prescribed
4 by rules promulgated by the Department.

5 (210 ILCS 125/4.9 new)

6 Sec. 4.9. Fee schedule. The Department shall provide by
7 rule a fee schedule for a permit to construct or alter a
8 swimming facility in a major manner, for licensing and
9 licensure renewal of swimming facilities and swimming facility
10 contractors, and for certification of swimming facility
11 designers, and shall establish standards and procedures for
12 their licensure. The fees shall be deposited into the
13 Facilities Licensing Fund and used by the Department for the
14 costs of licensing and enforcement activities prescribed by
15 this Act.

16 (210 ILCS 125/5) (from Ch. 111 1/2, par. 1205)

17 Sec. 5. Permit for construction or major alteration. No
18 swimming facility shall be constructed, developed, installed,
19 or altered in a major manner until plans, specifications, and
20 other information relative to such swimming facility and
21 appurtenant facilities as may be requested by the Department
22 are submitted to and reviewed by the Department and found to
23 comply with minimum sanitary and safety requirements and design
24 criteria, and until a permit for the construction or

1 development is issued by the Department. ~~Construction permits~~
2 ~~for spas are not required until January 1, 2003.~~ Permits are
3 valid for a period of one year from date of issue. They may be
4 reissued upon application to the Department and payment of the
5 permit fee as prescribed by rules promulgated by the
6 Department. An application for a permit shall be made by a
7 swimming facility design professional who is certified by the
8 Department. The swimming facility design professional shall
9 ensure that the application and accompanying plans,
10 specifications, and certifications conform to standards
11 established by the Department ~~provided in this Act.~~

12 The fee to be paid by an applicant, ~~other than an~~
13 ~~organization incorporated under the General Not for Profit~~
14 ~~Corporation Act, as now or hereafter amended,~~ for a permit for
15 construction, development, major alteration, or installation
16 of each swimming facility shall be as prescribed by rules
17 promulgated by the Department ~~is \$50, which shall accompany~~
18 ~~such application. If more than one submission of plans to the~~
19 ~~Department is required prior to issuance of a permit, each~~
20 ~~submission shall be accompanied by a resubmittal fee and~~
21 ~~required documents as prescribed by rules promulgated by the~~
22 Department.

23 (Source: P.A. 92-18, eff. 6-28-01.)

24 (210 ILCS 125/6) (from Ch. 111 1/2, par. 1206)

25 Sec. 6. License renewal. Applications and fees for renewal

1 of the license shall be made as prescribed by rules promulgated
2 by the Department. ~~in writing by the holder of the license, on~~
3 ~~forms furnished by the Department and, except in the case of an~~
4 ~~application by an organization incorporated under the General~~
5 ~~Not for Profit Corporation Act, as now or hereafter amended,~~
6 ~~shall be accompanied by a license application fee of \$50, which~~
7 ~~shall not be refundable, and shall contain any change in the~~
8 ~~information submitted since the original license was issued or~~
9 ~~the latest renewal granted. In addition to any other fees~~
10 ~~required under this Act, a late fee of \$20 shall be charged~~
11 ~~when any renewal application is received by the Department~~
12 ~~after the license has expired; however, educational~~
13 ~~institutions and units of State or local government shall not~~
14 ~~be required to pay late fees. If, after inspection, the~~
15 ~~Department is satisfied that the swimming facility is in~~
16 ~~substantial compliance with the provisions of this Act and the~~
17 ~~rules and regulations issued thereunder, the Department shall~~
18 ~~issue the renewal license.~~

19 (Source: P.A. 92-18, eff. 6-28-01.)

20 (210 ILCS 125/7) (from Ch. 111 1/2, par. 1207)

21 Sec. 7. Conditional license. If the Department finds that
22 the facilities of any swimming facility for which a license is
23 sought are not in compliance with the provisions of this Act
24 and the rules ~~and regulations~~ of the Department relating
25 thereto, but may operate without undue prejudice to the public,

1 the Department may issue a conditional license setting forth
2 the conditions on which the license is issued, the manner in
3 which the swimming facility fails to comply with the Act and
4 such rules ~~and regulations~~, and shall set forth the time, not
5 to exceed 3 years, within which the applicant must make any
6 changes or corrections necessary to fully comply with this Act
7 and the rules and regulations of the Department relating
8 thereto. No more than 3 such consecutive annual conditional
9 licenses may be issued.

10 (Source: P.A. 92-18, eff. 6-28-01.)

11 (210 ILCS 125/8) (from Ch. 111 1/2, par. 1208)

12 Sec. 8. Payment of fees; display of licenses. All fees and
13 penalties generated under the authority of this Act shall be
14 deposited into the Facility Licensing Fund and, subject to
15 appropriation, shall be used by the Department in the
16 administration of this Act. All fees and penalties shall be
17 submitted in the form of a check or money order or by other
18 means authorized by the Department. All licenses provided for
19 in this Act shall be displayed in a conspicuous place for
20 public view, within or on such premises. In case of revocation
21 or suspension, the owner or operator or both shall cause the
22 license to be removed and to post the notice of revocation or
23 suspension issued by the Department.

24 (Source: P.A. 92-18, eff. 6-28-01.)

1 (210 ILCS 125/9) (from Ch. 111 1/2, par. 1209)

2 Sec. 9. Inspections. Subject to constitutional
3 limitations, the Department, by its representatives, after
4 proper identification, is authorized and shall have the power
5 to enter at reasonable times upon private or public property
6 for the purpose of inspecting and investigating conditions
7 relating to the enforcement of this Act and rules ~~regulations~~
8 issued hereunder. Written notice of all violations shall be
9 given to the owners, operators and licensees of swimming
10 facilities.

11 (Source: P.A. 92-18, eff. 6-28-01.)

12 (210 ILCS 125/13) (from Ch. 111 1/2, par. 1213)

13 Sec. 13. Rules. The Department shall promulgate, publish,
14 adopt and amend such rules ~~and regulations~~ as may be necessary
15 for the proper enforcement of this Act, to protect the health
16 and safety of the public using such pools and beaches, spas,
17 and other appurtenances, and may, when necessary, utilize the
18 services of any other state agencies to assist in carrying out
19 the purposes of this Act. These rules ~~regulations~~ shall include
20 but are not limited to establishing fees, design criteria for
21 swimming facility areas and bather preparation facilities,
22 standards relating to sanitation, cleanliness, plumbing, water
23 supply, sewage and solid waste disposal, design and
24 construction of all equipment, buildings, rodent and insect
25 control, communicable disease control, safety and sanitation

1 of appurtenant swimming facilities. The rules ~~regulations~~ must
2 include provisions for the prevention of bather entrapment or
3 entanglement at new and existing swimming facilities. The rules
4 shall establish standards for certification of swimming
5 facility design professionals and licensing swimming facility
6 contractors. ~~The Department may adopt less stringent~~
7 ~~requirements for spas existing prior to January 1, 2003 than~~
8 ~~for new spas, provided minimum safety features, including~~
9 ~~provisions to protect against bather entrapment, are provided.~~
10 Bather preparation facilities consisting of dressing room
11 space, toilets, and showers shall be available for use of
12 patrons of swimming facilities, except as provided by
13 Department rules ~~regulations~~.

14 (Source: P.A. 92-18, eff. 6-28-01.)

15 (210 ILCS 125/14) (from Ch. 111 1/2, par. 1214)

16 Sec. 14.

17 Whenever the Department determines that there are
18 reasonable grounds to believe that there has been violation of
19 any provision of this Act or the rules and regulations issued
20 hereunder, the Department shall give notice of such alleged
21 violation to the person to whom the license was issued, as
22 herein provided. Such notice shall:

23 (a) be in writing;

24 (b) include a statement of the reasons for the issuance of
25 the notice;

1 (c) (blank) ~~allow reasonable time as determined by the~~
2 ~~Department for the performance of any act it requires; and~~

3 (d) be served upon the owner, operator or licensee as the
4 case may require; provided that such notice or order shall be
5 deemed to have been properly served upon such owner, operator
6 or licensee when a copy thereof has been sent by registered or
7 certified mail to his last known address as furnished to the
8 Department; or, when he has been served with such notice by any
9 other method authorized by the laws of this State. †

10 (e) (Blank) ~~contain an outline of remedial action, which,~~
11 ~~if taken, will be required to effect compliance with the~~
12 ~~provisions of this Act and the rules and regulations issued~~
13 ~~hereunder.~~

14 (Source: P.A. 78-1149.)

15 (210 ILCS 125/15) (from Ch. 111 1/2, par. 1215)

16 Sec. 15. Civil penalties. The Department may assess civil
17 penalties, not to exceed \$5,000 per violation, for violations
18 of this Act and the rules promulgated under this Act pursuant
19 to rules for such penalties established by the Department. Each
20 date a violation exists shall constitute a separate violation.
21 ~~The Department shall in any proceeding to suspend, revoke or~~
22 ~~refuse to issue a license or permit, first serve or cause to be~~
23 ~~served upon the applicant or licensee a written notice~~
24 ~~specifying the way or ways in which such applicant or licensee~~
25 ~~has failed to comply with this Act, or any rules, regulations~~

1 ~~or standard promulgated by the Department pertaining thereto.~~
2 ~~In the case of a revocation or suspension, this notice shall~~
3 ~~require the licensee to remove or abate such violation,~~
4 ~~insanitary or objectionable condition, specified in such~~
5 ~~notice, within 5 days or within a longer period of time as may~~
6 ~~be allowed by the Department; if the licensee fails to comply~~
7 ~~with the terms and conditions of the notice, within the time~~
8 ~~specified or such extended period of time, the Department may~~
9 ~~revoke or suspend such license or permit. If an applicant fails~~
10 ~~to comply with the Act, rules or regulations or standards~~
11 ~~promulgated thereunder, the Department may refuse to issue a~~
12 ~~license.~~

13 (Source: P.A. 78-1149.)

14 (210 ILCS 125/16) (from Ch. 111 1/2, par. 1216)

15 Sec. 16. The Director, after notice and opportunity for
16 hearing to a party, may deny, suspend, or revoke a license or
17 permit, or assess a civil penalty, in any case in which he or
18 she finds that there has been a substantial failure to comply
19 with the provisions of this Act or rules established under it.
20 Notice shall be provided by certified mail, return receipt
21 requested, or served personally and by fixing a date, not less
22 than 15 days from the date of such mailing or service, by which
23 the applicant or license holder shall be given an opportunity
24 to serve a written request for hearing upon the Department. The
25 hearing shall be conducted by the Director or by an individual

1 designated in writing by the Director as Hearing Officer. On
2 the basis of any such hearing, or upon default of the applicant
3 or license holder, the Director shall make a determination
4 specifying his or her findings and conclusions. A copy of the
5 determinations shall be sent by certified mail, return receipt
6 requested, or served personally upon the applicant or license
7 holder.

8 ~~The Department shall give written notice by certified or~~
9 ~~registered mail to any person refused a license or whose~~
10 ~~license is suspended or revoked; such person has a right to a~~
11 ~~hearing before the Department; however, a written notice of a~~
12 ~~request for such a hearing shall be served on the Department~~
13 ~~within 10 days of notice of such refusal of a license or~~
14 ~~suspension or revocation thereof. The hearing shall be~~
15 ~~conducted by the Director, or a Hearing Officer designated in~~
16 ~~writing by the Director, to conduct the hearing. A stenographic~~
17 ~~record shall be made of the hearing and the cost borne by the~~
18 ~~Department; however, a transcription of the hearing will be~~
19 ~~made only if a party requests and shall be transcribed at the~~
20 ~~cost of such party.~~

21 ~~The hearing shall be conducted at such place as designated~~
22 ~~by the Department. The Director shall give written notice of~~
23 ~~the time and place of hearing, by registered or certified mail,~~
24 ~~to the owner, operator, licensee, or applicant, as the case may~~
25 ~~be, at least 20 days before such hearing. The Director or~~
26 ~~Hearing Officer shall permit the owner, operator, licensee or~~

1 ~~applicant to appear in person or to be represented by counsel~~
2 ~~at the hearing at which time such party shall be afforded an~~
3 ~~opportunity to present all relevant matter in support of his~~
4 ~~application for license or in resisting the revocation or~~
5 ~~suspension thereof.~~

6 (Source: P.A. 78-1149.)

7 (210 ILCS 125/21) (from Ch. 111 1/2, par. 1221)

8 Sec. 21. Closure of facility. Whenever the Department finds
9 any violation of this Act or the rules promulgated hereunder,
10 and the violation presents an emergency or risk to public
11 health, ~~of the conditions hereinafter set forth~~ it shall,
12 without prior notice or hearing, issue a by written notice,
13 immediately ordering ~~order~~ the owner, operator, or licensee to
14 close the swimming facility and prohibiting to prohibit any
15 person from using such facility facilities. Notwithstanding
16 any other provisions in this Act, such order shall be effective
17 immediately. †

18 ~~(1) If conditions at a swimming facility and~~
19 ~~appurtenances, including bathhouse facilities, upon~~
20 ~~inspection and investigation by a representative of the~~
21 ~~Department, create an immediate danger to health or safety,~~
22 ~~including conditions that could lead to bather entrapment~~
23 ~~or entanglement; or~~

24 ~~(2) When the Department, upon review of results of~~
25 ~~bacteriological analyses of water samples collected from a~~

1 ~~swimming facility, finds that such water does not conform~~
2 ~~to the bacteriological standards promulgated by the~~
3 ~~Department for proper swimming water quality; or~~

4 ~~(3) When an environmental survey of an area shows~~
5 ~~evidence of sewage or other pollutational or toxic materials~~
6 ~~being discharged to waters tributary to a beach creating an~~
7 ~~immediate danger to health or safety; or~~

8 ~~(4) When the Department finds by observation or test~~
9 ~~for water clarity of the swimming facility water a higher~~
10 ~~turbidity level than permitted in the standards for~~
11 ~~physical quality as promulgated by the Department; or~~

12 ~~(5) When in such cases as it is required, the presence~~
13 ~~of a satisfactory disinfectant residual, prescribed by~~
14 ~~rule as promulgated by the Department, is absent.~~

15 The notice shall state the reasons prompting the closing of
16 the facilities and a copy of the notice must be posted
17 conspicuously at the pool or beach by the owner, operator or
18 licensee.

19 The State's Attorney and Sheriff of the county in which the
20 swimming facility is located shall enforce the closing order
21 after receiving notice thereof.

22 Any owner, operator or licensee affected by such an order
23 is entitled, upon written request to the Department, to a
24 hearing as provided in this Act.

25 When such violations ~~conditions~~ are abated ~~or when the~~
26 ~~results of analyses of water samples collected from the~~

1 ~~swimming facility,~~ in the opinion of the Department, ~~comply~~
2 ~~with the Department's bacteriological standards for acceptable~~
3 ~~water quality, or when the turbidity decreases to the~~
4 ~~permissible limit, or when the disinfectant residual reaches a~~
5 ~~satisfactory level as prescribed by rule,~~ the Department may
6 authorize reopening the swimming facility ~~pool or beach.~~ ~~When~~
7 ~~sources of sewage, pollution, or toxic materials discovered as~~
8 ~~a result of an environmental survey are eliminated, the~~
9 ~~Department may authorize reopening of such beach.~~

10 (Source: P.A. 92-18, eff. 6-28-01.)

11 (210 ILCS 125/22) (from Ch. 111 1/2, par. 1222)

12 Sec. 22. The Department may assess civil penalties for
13 violations of this Act and the rules promulgated thereunder,
14 pursuant to rules for such penalties established by the
15 Department.

16 Any person who violates this Act or any rule or regulation
17 adopted by the Department, or who violates any determination or
18 order of the Department under this Act shall be guilty of a
19 Class A misdemeanor.

20 Any person who knowingly violates this Act or the rules
21 adopted by the Department shall be guilty of a Class 4 felony.

22 Each day's violation constitutes a separate offense. The
23 State's Attorney of the county in which the violation occurred,
24 or the Attorney General shall bring such actions in the name of
25 the people of the State of Illinois, or may in addition to

1 other remedies provided in this Act, bring action for an
2 injunction to restrain such violation, or to enjoin the
3 operation of any such establishment.

4 (Source: P.A. 78-1149.)

5 (210 ILCS 125/23) (from Ch. 111 1/2, par. 1223)

6 Sec. 23. Applicability of Act. Nothing in this Act shall be
7 construed to exclude the State of Illinois and Departments and
8 educational institutions thereof and units of local government
9 except that the provisions in this Act for fees or late fees,
10 or both, for licenses and permits, and the provisions for fine
11 and imprisonment shall not apply to the State of Illinois, to
12 Departments and educational institutions thereof, or units of
13 local government. ~~This Act shall not apply to beaches operated~~
14 ~~by units of local government located on Lake Michigan.~~

15 (Source: P.A. 92-18, eff. 6-28-01.)

16 (210 ILCS 125/29 new)

17 Sec. 29. Construction, installation, and alterations. All
18 construction, installation, and major alterations of swimming
19 facilities, other than water slides and bathing beaches, shall
20 be performed by a licensed swimming facility contractor.

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.

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210 ILCS 125/3.12

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210 ILCS 125/3.13 new

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210 ILCS 125/3.14 new

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210 ILCS 125/3.15 new

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210 ILCS 125/4 from Ch. 111 1/2, par. 1204

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210 ILCS 125/4.1 new

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210 ILCS 125/4.9 new

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210 ILCS 125/8 from Ch. 111 1/2, par. 1208

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